



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 27531S DATE: May 7, 2003
RESPONSE REQUIRED BY: June 9, 2003

PERMIT MANAGER: Bob Quebedeaux

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1. INTRODUCTION: The Port of Oakland [Mr. Joseph Wong, 530 Water Street, P.O. Box 2064, Jack London Square, Oakland, CA 94607, Attn: Ms. Jody Zaitlin, (510) 627-1179] has applied for a ten (10) year Department of the Army (Corps) permit to conduct maintenance and minor construction activities within Corps jurisdictional tidal waters at the Port of Oakland in the City of Oakland, Alameda County, California. The subject area, as shown in the attached Figures 1, 2, 3, and 8, is located on the East shoreline of San Francisco Bay in the City of Oakland, extending roughly from the Oakland-Emeryville border to the north, and to the extension of East 7th Street to the southeast. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 33 U.S.C. 403).

2. PROJECT DESCRIPTION: The purpose of the proposed work is to maintain the existing waterfront facilities for the benefit and enjoyment of the public as well as to ensure the viability and effectiveness of the existing marine terminal facilities and infrastructure for the movement of cargo and freight. The work is designed to comply with applicable permits, public safety, security and regulatory requirement mandates. Failure to perform the proposed maintenance and minor construction activities could result in failure of waterfront structures, shoreline erosion, flooding of waterfront property, unsafe conditions, and loss of or reduced public access to the shoreline and water

areas. The Port of Oakland states that the proposed project will have only minimal, if any, temporary construction-related impacts to Corps jurisdictional waters (e.g., limited sediment re-suspension) and will minimize any of these potential impacts by using standard best management practices (BMP's) during maintenance and/or approved minor construction (on file with the Corps). The Port of Oakland will submit an annual report describing the prior year's actual work and the next year's proposed work that impacted/will impact Corps jurisdictional areas, with a site map indicating the location of work performed or to be performed.

The Port of Oakland has requested Department of the Army authorization to perform the following maintenance and minor construction activities:

I. Maintenance: Repair, rehabilitation of any previously authorized, currently serviceable, structure or fill or any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Cross Sections of typical existing structures to be maintained are shown in Figures 4-7. To the extent practicable, equipment shall work from an upland site (e.g. from the top of the bank.) Minor deviations in the structure's configuration of filled area including those due to changes in materials, construction techniques, or current construction

codes or safety standards which are necessary to make repair, rehabilitation, or replacement are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation or replacement are minimal. Proposed maintenance activities include the following and similar activities/facilities/structures:

1. Banks, dikes, and existing riprap \leq linear 2000 feet/year; provided that:

a. No material is placed in excess of the minimum needed for erosion protection;

b. Bank stabilization activity is less than 500 feet in length;

c. The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line;

d. No material is placed in any special aquatic site, including wetlands;

e. No material is of the type, or is placed in any location, or in any manner, to impair surface water flow into or out of any wetland area;

f. No material is placed in a manner that will be eroded by normal or expected high flows, and,

2. Navigation aids, approximately 1/year;

3. Tide gates, approximately 8/year;

4. Pile, wharves, fenders (no new placement with creosote-treated piles), \leq 200 piles/year;

5. Intakes and outfalls, approximately 60/year provided that:

a. The amount to excavated or dredged material must be the minimum necessary to restore the outfalls, intakes, small impoundments to original design capacities and design configurations;

b. The excavated or dredged material is deposited and retained at an upland site, unless otherwise approved by the District Engineer under separate authorization; and

c. Proper soil erosion and sediment control measures are used to minimize reentry of sediments into waters of the U.S.;

6. Fencing \leq 100 ft./year;

7. Pipelines/utilities \leq 200 ft./year;

8. Bulkhead and quay wall maintenance, approximately once/year; and

9. Marina/ferry docking facilities including reconfiguration of existing docking facilities within an authorized marina or ferry area. No dredging, additional slips, dock spaces, or expansion of any kind within waters of the U.S. is authorized, approximately 1/year.

II. Minor Construction: Examples include:

1. Placement and use of scientific measurement devices whose purpose is to provide security or to measure and record scientific data such as staff gages, tide gates, water recording devices, water quality and sediment testing and improvement devices and similar structures, approximately 10/year;

2. Survey/sounding activities (including site investigations, soil/sediment sampling, groundwater sampling/testing, etc.) including core sampling, seismic exploratory operations, plugging of exploratory-type bore holes, soil survey, sampling, and historic resources surveys, approximately 3 times/year that are not permitted through separate project authorizations;

3. Removal/salvage of vessels: Temporary structures or minor discharges of dredged or fill material required for the removal of wrecked, abandoned, or disabled vessels or the removal of human-made obstructions to navigation and debris removal, approximately 10/year;

4. New utility installation to existing facilities. Excess materials removed from any trenches shall be disposed of at an upland site, approximately 1 installation/year;

5. Placement of new aids to navigation and regulatory markers which are approved by and installed in accordance with requirements of the U.S. Coast Guard, approximately 1 installation/year;

6. Spill/contamination prevention and response, approximately 2 times/year;

7. Repairs due to fire, collision, misplaced

anchorages, accidents or acts of Nature approximately 5 times/year;

8. Wildlife/vegetation management, approximately 2 times/year;

9. Minor excavation/dredging of no more than 25 cubic yards below the plane of the mean high water mark as part of a single and complete project, excluding wetlands or areas of submerged aquatic vegetation (The excavated or dredged material will be deposited and retained at an upland site, unless otherwise approved by the District Engineer under separate authorization), approximately 2 times/year;

10. Minor discharges of dredged or fill material into all waters of the U.S., approximately 2 times/year if the activity meets all of the following criteria:

a. The quantity of discharged material and the volume of area excavated do not exceed 10 cubic yards below the plan of the high tide line;

b. The discharge, including any excavated area, will not cause the loss of more than 1/10 acre of special aquatic site, including wetlands; and

11. Structural discharges of material such as concrete, sand, rock, etc., into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as bridges, transmission line footings, and walkways or for general navigation, such as mooring cells, including the excavation of bottom material from within the form prior to the discharge of concrete, sand, rock, etc., approximately 2 times/year.

3. STATE APPROVALS: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the San Francisco Bay Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification. A waiver shall be deemed to have occurred if the State fails or refuses to act on a

valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period of this Public Notice.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS: The Corps will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. The documents used in the preparation of the Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

Endangered Species Act of 1973 (ESA): The project is located on the San Francisco Bay, in which the following listed species may occur: Central California coho salmon (*Oncorhynchus kisutch*), steelhead trout (*Oncorhynchus mykiss*), Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*), California brown pelican (*Pelecanus occidentalis*), California least tern (*Sterna antillarum*) and Western snowy plover (*Charadrius alexandrinus nivosus*). Therefore, the Corps will initiate Section 7 consultation with the U.S. Fish & Wildlife Service and the National Marine Fisheries Service (NOAA Fisheries) to avoid any adverse effects to these listed species as a result of permitted maintenance and minor construction activities.

Magnuson-Stevens Fishery Conservation and

Management Act of 1996: In addition, the Corps will consult with NOAA Fisheries on potential of adverse impacts to essential fish habitat pursuant to this Act for various life stages of fish species occurring in San Francisco Bay.

National Historic Preservation Act of 1966 (NHPA): A Corps archaeologist will be requested to conduct a cultural resources assessment of the permit area, involving a review of published and unpublished data on file with city, State and Federal agencies. If, based on assessment results, a field investigation of the permit area is warranted, and cultural properties listed or eligible for listing on the National Register of Historic Places are identified during the inspection, the Corps will coordinate with the State Historic Preservation Officer to take into account any project effects on such properties.

5. EVALUATION OF ALTERNATIVES:

Evaluation of this activity's impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344(b)). An evaluation was made by this office under the 404(b)(1) guidelines and it was determined that the proposed project is water dependent.

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the

outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this Notice and should be forwarded so as to reach this office within the comment period specified on page one of this Notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments that include objections to the

applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this Notice, or by contacting Bob Quebedeaux of our office at telephone 415-977-8446 or E-mail: bob.d.quebedeaux@spd02.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided on request.